

June 8, 2021

The Honorable Gary Gensler, Chair  
The Honorable Hester M. Peirce, Commissioner  
The Honorable Elad L. Roisman, Commissioner  
The Honorable Allison Harren Lee, Commissioner  
The Honorable Caroline A. Crenshaw, Commissioner  
Securities and Exchange Commission  
100 F St. NE  
Washington, DC 20549  
Via email: rule-comments@sec.gov

Re: Public Input Welcomed on Climate Change Disclosures, Acting Chair Allison Herren Lee;  
One hundred million reasons investors need greater transparency of corporate political spending.

Dear Chair Gensler and Commissioners,

I am a law professor at Stetson University College of Law in Florida and a fellow at the Brennan Center for Justice at NYU School of Law.<sup>1</sup> I teach Business Entities and Corporate Governance, as well as Election Law and the First Amendment, and my scholarly focus is on the need for better transparency of corporate political spending.<sup>2</sup>

When the Supreme Court ruled in 2010 in *Citizens United v. FEC* that corporations had a First Amendment right to spend in American elections, there was an open question whether corporations would exercise the right to intervene in American elections. A decade later the empirical evidence shows that corporations are using their *Citizens United* rights to spend in American elections. During the 2020 federal election there were over 1,600 corporate donations to federal Super PACS which totaled over \$100 million.<sup>3</sup> In the 2018 federal midterm election there were over 1,100 corporate donations to federal Super PACs which totaled over \$71 million.<sup>4</sup>

As I note in my book, Political Brands, corporate political spending is inherently risky as it could alienate consumers and investors alike.<sup>5</sup> Researchers Costas Panagopoulos *et al.* found that when consumers learned about the corporate political spending for companies behind popular brands,

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<sup>1</sup> I am writing on behalf of myself and not these organizations.

<sup>2</sup> Ciara Torres-Spelliscy, *Dark Money as a Political Sovereignty Problem*, 28 (2) *KINGS L.J.* 239 (2017); Ciara Torres-Spelliscy, *Safeguarding Markets from Pernicious Pay to Play: A Model Explaining Why the SEC Regulates Money in Politics*, 12(2) *CONNECTICUT PUBLIC INTEREST LAW JOURNAL* 361 (2012-2013), <https://ssrn.com/abstract=2184554>; Ciara Torres-Spelliscy, *Has the Tide Turned in Favor of Disclosure? Revealing Money in Politics After Citizens United and Doe v. Reed*, 27 *GA. ST. U. L. REV.* 1057 (Summer 2011).

<sup>3</sup> *Corporate Contributions to Outside Groups 2020*, Center for Responsive Politics (undated), <https://www.opensecrets.org/outside-spending/corporate-contributions> (last visited June 1, 2021).

<sup>4</sup> *Corporate Contributions to Outside Groups 2018*, Center for Responsive Politics (undated), <https://www.opensecrets.org/outside-spending/corporate-contributions?cycle=2018> (last visited June 1, 2021).

<sup>5</sup> CIARA TORRES-SPELLISCY, *POLITICAL BRANDS* (2019).

consumers said that they would change their consumption to match their own partisan views.<sup>6</sup> Post-*Citizens United*, there are perils for a commercial brand being perceived as overtly partisan. Chris Jackson and Clifford Young found “no matter which way a company moves politically, there are quite likely going to be customers who object.”<sup>7</sup> All of these corporate decisions to get into politics can impact shareholder value.

The 2018 midterm appears to have been a watershed moment in terms of corporate political spending by publicly traded companies. It was way up, in terms of both number of corporations involved and aggregate spending. Most publicly traded corporate money in 2018 went to Super PACs supporting Congressional leadership and President Trump. In 2018 Chevron (ticker CVX) gave \$1.75 million to the Congressional Leadership Fund and \$1.9 million to the Senate Leadership Fund; Valero Services, a subsidiary of Valero Energy Corporation (ticker VLO), gave \$1.5 million to the Congressional Leadership Fund and \$250,000 to the Senate Leadership Fund; RAI Services Company, which operates as a subsidiary of Reynolds American Inc. (ticker RAI), gave \$850,000 to the Congressional Leadership Fund and \$450,000 to the Senate Leadership Fund; Occidental Petroleum (ticker OXY) gave \$750,000 to the Congressional Leadership Fund and \$400,000 to the Senate Leadership Fund; Marathon Petroleum (ticker MPC) gave \$530,000 to the Congressional Leadership Fund and \$1.53 million to the Senate Leadership Fund; Scotts Miracle-Gro (ticker SMG) gave \$350,000 to the Congressional Leadership Fund and \$50 000 to America First Action; Altria Client Services, a limited liability company that services Altria (ticker MO), gave \$332,930 to the Congressional Leadership Fund and \$325,000 to the Senate Leadership Fund; ConocoPhillips (ticker COP) gave \$250,000 to the Congressional Leadership Fund and \$1 million to the Senate Leadership Fund; Ai Altep Holdings, an affiliate of EP Energy Corp (ticker EPE), gave \$1 million to the Senate Leadership Fund; Alliance Coal, LLC, which operates as a subsidiary of Alliance Resource Partners LP (ticker ARLP), gave \$1 million to the Senate Leadership Fund; Next Era Energy (ticker NEE) gave \$1 million to the Senate Leadership Fund; Devon Energy Production Company, L.P., which operates as a subsidiary of Devon Energy Corporation (ticker DVN), gave \$600,000 to the Senate Leadership Fund; Peabody Investments, a subsidiary of Peabody Energy (ticker BTU), gave \$500,000 to the Senate Leadership Fund; Boeing Co (ticker BA) gave \$250,000 to the Senate Leadership Fund; MGM Resorts International (ticker MGM) gave \$250,000 to the Senate Leadership Fund; and Continental Resources (ticker CLR) gave \$550,000 to America First Action. But some corporate political spending supported particular Senatorial candidates. For instance, Heritage Insurance (ticker HRTG) gave \$200,000 to New Republican PAC; GEO Group (ticker GEO) gave \$175,000 to New Republican PAC; Select Medical Holdings Corp (SEM) gave \$150,000 to New Republican PAC; Alico Inc (ALCO) gave \$100,000 to New Republican PAC; Copart Inc

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<sup>6</sup> Costas Panagopoulos et al., *Risky Business: Does Corporate Political Giving Affect Consumer Behavior?* (Oct. 26, 2016) (unpublished), <https://documents.pub/document/risky-business-does-corporate-political-giving-affect-business-does-corporate.html> (“It appears that few people have much back-ground knowledge about the political sympathies of leading national chains, but when told which corporations are the largest or most lopsided contributors to a political party, respondents express their partisanship through their consumption choices.”).

<sup>7</sup> *Brand Risk in the New Age of Populism: Four Key Tactics for Surviving Hyper-Partisan Consumers*, IPSOS 9 (June 7, 2017), [www.ipsos.com/sites/default/files/2017-06/IpsosPA\\_POV\\_PoliticsAndBrands.pdf](http://www.ipsos.com/sites/default/files/2017-06/IpsosPA_POV_PoliticsAndBrands.pdf).

(ticker CPRT) gave \$100 000 to New Republican PAC; and Sunseeker Resorts, an affiliate of Allegiant Travel Company (ticker ALGT) gave \$100,000 to New Republican PAC. This totaled \$18,192,930 from publicly traded companies to Super PACs in 2018.<sup>8</sup>

This chart shows that in 2020 there was even more political spending in the 2020 federal election from publicly traded companies:<sup>9</sup>

<b>Publicly traded firm</b>	<b>Federal political spending 2020</b>
Aaron's Inc	\$ 140,335.00
Acadia Healthcare	\$ 195,100.00
Atlanticus Holdings	\$ 50,000.00
Bank Of America	\$ 801,842.00
Boeing Co	\$ 4,111,620.00
British American Tobacco	\$ 4,107,460.00
Cannae Holdings	\$ 1,000,000.00
Centene Corp	\$ 1,003,100.00
Chevron Corp	\$ 7,200,500.00
ConocoPhillips	\$ 1,536,000.00
Dominion Energy	\$ 712,000.00
DTE Energy	\$ 535,500.00
Enterprise Products Partners	\$ 583,282.00
Fidelity National Financial	\$ 1,096,275.00
GEO Group	\$ 1,578,166.00
Liberty Media Corp	\$ 109,000.00
Madison Square Garden	\$ 1,050,000.00
Marathon Petroleum	\$ 1,869,700.00
New Fortress Energy	\$ 100,000.00
Rafael Holdings	\$ 50,000.00
Sirius XM Radio	\$ 95,500.00
Sterling Holdings	\$ 100,000.00
United Health Group	\$ 1,820,804.00
Valero Energy	\$ 3,701,000.00
Xcel Energy	\$ 406,900.00
<b>Grand total</b>	<b>\$33,954,084</b>

If this was the total universe of corporate political spending from publicly traded companies in 2018 and 2020, I would not be writing to you. However, not all corporations spend under their own

<sup>8</sup> CIARA TORRES-SPELLISCY, POLITICAL BRANDS 73-75 (2019).

<sup>9</sup> All of the data from this chart is from OpenSecrets.org. Search the name of the company and look at money from the organization in the 2020 election cycle.

doing-business-as names in a transparent way. Rather, some companies are spending dark money in American elections. Disclosures to investors has not kept up with corporate dark money.

Since 2010, corporate law experts have urged the SEC to promulgate a new transparency rule for corporate political spending.<sup>10</sup> The reason such a new rule is needed is as I discuss in my first book, Corporate Citizen, dark money has plagued American elections in the intervening years between 2010 and today:

The impact of *Citizens United* was immediately clear. Roughly \$450 million in outside money was spent in [the 2010 midterm] federal election, and \$131 million of that spending was from dark money sources. “Dark money,” means political spending where the original source is impossible for the public to discover. As the Chair of the Federal Election Commission (FEC) Ann Ravel noted, “[t]here are circuitous ways to spend. We have the nesting doll problem with dark money.” Because much of that dark money was funneled through trade associations like the U.S. Chamber of Commerce, there is a deep suspicion that much of this dark money came from corporations exercising their new *Citizens United* rights to spend. But because the money is dark, the public may never know for sure. As prominent political lawyer Trevor Potter explained, “[w]e only know corporate funding of most political ads when it is inadvertently disclosed.”<sup>11</sup>

There are two ways that corporate dark money is spent in American elections: the use of non-disclosing nonprofits and the choice to pay for digital political ads.<sup>12</sup> One way dark money becomes dark is for a publicly traded corporation to spend through an opaque non-profit, such as a 501(c)(4) social welfare organization or a 501(c)(6) trade association. When money is spent in this opaque way, the voting public and the shareholding public are similarly in the dark that a publicly traded company was the true original source of the funding. Between 2008 and 2020, roughly \$1 billion in dark money has been spent through opaque nonprofits.<sup>13</sup> Since dark money is secret, there is no way for an outsider to know what percentage is corporate. There is good reason to suspect that some of this dark money is corporate since over \$114 million of this dark money was routed through the U.S. Chamber of Commerce, an opaque business trade association between 2012 and 2020.<sup>14</sup>

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<sup>10</sup> Lucian A. Bebchuk & Robert J. Jackson, Jr., *Corporate Political Speech: Who Decides?*, 124 HARVARD LAW REVIEW 83, 83-85 (2010).

<sup>11</sup> CIARA TORRES-SPELLISCY, CORPORATE CITIZEN?: AN ARGUMENT FOR THE SEPARATION OF CORPORATION AND STATE 14 (Carolina 2016) (internal citations omitted).

<sup>12</sup> Michael E. Hartmann, *The Etymology of “Dark Money” Where did the phrase originate, and what does it mean?*, CAPITAL RESEARCH CENTER (July 15, 2019) (Bill Allison at the Sunlight Foundation coined the phrase ‘dark money.’).

<sup>13</sup> Anna Massoglia, *State of Money in Politics: Billion-dollar ‘dark money’ spending is just the tip of the iceberg*, Open Secrets (Feb. 21, 2019), <https://www.opensecrets.org/news/2019/02/somp3-billion-dollar-dark-money-tip-of-the-iceberg/>.

<sup>14</sup> US Chamber of Commerce: Outside Spending Summary 2012, OpenSecrets.org, [www.opensecrets.org/outsidespending/detail.php?cycle=2012&cmte=C90013145](http://www.opensecrets.org/outsidespending/detail.php?cycle=2012&cmte=C90013145) (showing 2012 spending at \$32,255,439); US Chamber of Commerce: Outside Spending Summary 2014, OpenSecrets.org,

In the 2018 federal midterm election, over \$147 million in dark money was spent.<sup>15</sup> Dark money is money spent in elections which cannot be traced to its real source.<sup>16</sup> With dark money, the voting public only knows the last entity that spends in an election, but not the identity of underlying donors. There's an entirely separate dark money problem in state and local elections as well.<sup>17</sup>

The 2020 election, in which \$1 billion in dark money was spent, revealed a second large vector of dark money in American elections: digital advertising. Since the last time Congress revised the federal campaign finance laws in earnest was in 2002, many of the campaign finance disclosure laws are focused on *broadcast* ads and subsequently ignore the phenomenon of digital ads that can appear on social media platforms that simply did not exist in 2002 such as Facebook and Twitter.<sup>18</sup> Because of gaps in federal campaign finance laws that largely do not cover digital ads which are identical to broadcast ads on tv, except for the medium of delivery, digital ads have become a new frontier for dark (undisclosed and unreported) spending. I sometimes refer to this as “black hole money.”<sup>19</sup> Open Secrets which tracks political spending estimates that \$132 million was spent in unreported digital ad buys in the 2020 election alone.<sup>20</sup> This spending is not captured by the FEC, nor is it captured by SEC reporting because of the lack of anti-dark money rule at the Commission. Again, investors do not know if their publicly traded company is the funding source of these dark-money digital ads. This leaves investors flying blind.

Dark money can also be used to restrict voting rights. Because of the lack of transparency around corporate political spending, often the public only learns of this activity after an embarrassing leak or data breach. In May 2021, *Mother Jones* published a secret tape of Jessica Anderson, the executive

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[www.opensecrets.org/outsidespending/detail.php?cycle=2014&cmte=C90013145](http://www.opensecrets.org/outsidespending/detail.php?cycle=2014&cmte=C90013145) (showing 2014 spending at \$35,464,243); US Chamber of Commerce: Outside Spending Summary 2016, OpenSecrets.org, [www.opensecrets.org/orgs/summary.php?id=D000019798&cycle=2016](http://www.opensecrets.org/orgs/summary.php?id=D000019798&cycle=2016) (showing 2016 spending at \$29,099,947); US Chamber of Commerce: Outside Spending Summary 2018, OpenSecrets.org, [www.opensecrets.org/orgs/summary.php?id=D000019798&cycle=2018](http://www.opensecrets.org/orgs/summary.php?id=D000019798&cycle=2018) (showing 2016 spending at \$11,908,413); US Chamber of Commerce: Outside Spending Summary 2018, OpenSecrets.org, <https://www.opensecrets.org/orgs/us-chamber-of-commerce/summary?toprecipcycle=2020&contribcycle=2020&lobcycle=2020&outspendcycle=2020&id=D000019798&topnumcycle=2020> (showing 2020 spending at \$5,747,676); see also Dave Levinthal, *Trade Groups to Top Corporations: Resist Political Disclosure*, CTR. FOR PUB. INTEGRITY (Jan. 27, 2016), [www.publicintegrity.org/2016/01/27/19185/trade-groups-top-corporations-resist-political-disclosure](http://www.publicintegrity.org/2016/01/27/19185/trade-groups-top-corporations-resist-political-disclosure).

<sup>15</sup> *Dark Money Basics*, Open Secrets (last visited Sept. 16, 2019), <https://www.opensecrets.org/dark-money/basics> (showing \$147.7 million in dark money spent in 2018).

<sup>16</sup> Michael E. Hartmann, *The Etymology of “Dark Money” Where did the phrase originate, and what does it mean?*, Capital Research Center (July 15, 2019) (Bill Allison at the Sunlight Foundation coined the phrase ‘dark money.’).

<sup>17</sup> Chisun Lee & Douglas Keith, *How Semi-Secret Spending Took Over Politics*, The Atlantic (June 28, 2016), <https://www.theatlantic.com/politics/archive/2016/06/the-rise-of-gray-money-in-politics/489002/>.

<sup>18</sup> *This day in history February 04 2004 Facebook launches*, HISTORY CHANNEL (Feb. 2, 2021), <https://www.history.com/this-day-in-history/facebook-launches-mark-zuckerberg>; *This day in history July 15, 2006 Twitter launches*, HISTORY CHANNEL (July 14, 2020), <https://www.history.com/this-day-in-history/twitter-launches>.

<sup>19</sup> Ciara Torres Spelliscy, *Dark Money in the 2020 Election \$100 Million May Just Be the Tip of an Iceberg*, BRENNAN CENTER BLOG (Nov. 20, 2020), <https://www.brennancenter.org/our-work/analysis-opinion/dark-money-2020-election>

<sup>20</sup> Anna Massoglia & Karl Evers-Hillstrom, *‘Dark money’ topped \$1 billion in 2020, largely boosting Democrats*, OPEN SECRETS (Mar. 17, 2021), <https://www.opensecrets.org/news/2021/03/one-billion-dark-money-2020-electioncycle/>.

director of Heritage Action for America, a conservative dark money group speaking to her donors. Ms. Anderson bragged that Heritage Action for America was behind the language in several voter suppression bills that have passed in several states in 2021.<sup>21</sup> Why is this a corporate matter at all? What corporate investors do not know is whether their corporations are funding Heritage Foundation's sister organization Heritage Action for America, the anti-democratic dark money group. Corporations already support the Heritage Foundation, so it is not preposterous to think corporations might support their sister organization (Heritage Action for America) too.<sup>22</sup>

Many corporations and corporate leaders, to their credit, have publicly criticized legislators in Georgia, and other states for passing voting rights restrictions in 2021.<sup>23</sup> Concerned shareholders need to know whether these protests are mere window dressing or show sincere corporate commitments to a vibrant democracy. Any corporation who claims publicly to be against voter suppression legislation who is simultaneously funding a group like Heritage Action for America is clearly talking out of both sides of their mouth. An investor might well want to invest money in a firm that walks the walk and talks the talk of supporting a robust democracy, which is a key ingredient to a healthy economy.<sup>24</sup> But the lack of transparency surrounding corporate political spending robs investors of the ability to judge corporate actions in this and in many other areas of law. Moreover, the discovery that a corporation is surreptitiously linked to voter suppression efforts can generate boycotts by consumers who are outraged by the behavior.<sup>25</sup> This in turn, can negatively impact shareholders who are blindsided by the revelations.

Dark money is particularly obnoxious because political insiders often are quite aware of where corporate money in politics came from. As Professor Miriam Galston recently noted, "Even in the case of dark money groups that do not disclose their donors to the public, candidates are likely to know which individuals and entities are contributing huge amounts because, although such groups cannot coordinate their activities with candidates, no law prohibits them from disclosing to candidates the names of their donors and the amounts donated, if they choose. Thus, the public is in

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<sup>21</sup> Ari Berman & Nick Surgey, *Leaked Video: Dark Money Group Brags About Writing GOP Voter Suppression Bills Across the Country*. "We did it quickly and we did it quietly," said the executive director of Heritage Action., MOTHER JONES (May 13, 2021), <https://www.motherjones.com/politics/2021/05/heritage-foundation-dark-money-voter-suppression-laws/>.

<sup>22</sup> Heritage Foundation, SOURCE WATCH (Mar. 22, 2021), [https://www.sourcewatch.org/index.php/Heritage\\_Foundation](https://www.sourcewatch.org/index.php/Heritage_Foundation).

<sup>23</sup> Fadel Allasan, *Hundreds of corporations sign statement opposing restrictive voting bills*, AXIOS (Apr. 14, 2021), <https://www.axios.com/corporations-voting-restrictions-5799f170-d713-4ac4-a34e-edacb9842e1f.html>; Michael Posner, *Why Corporate America Opposes Voter Suppression*, FORBES (Apr. 14, 2021), <https://www.forbes.com/sites/michaelposner/2021/04/14/why-corporate-america-opposes-voter-suppression/?sh=5a3cd1671633>.

<sup>24</sup> Michael Waldman, *What every CEO should know about voting*, FORTUNE (June 6, 2021), <https://fortune.com/2021/06/06/what-every-ceo-should-know-about-voting-democracy-election-security-voter-fraud/>.

<sup>25</sup> Ciara Torres Spelliscy, *Georgia's New Voter Suppression Law and Corporate Support Georgia-based companies have gotten backlash from voting advocates for their silence on new regressive legislation.*, BRENNAN CENTER BLOG (Apr. 3, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/georgias-new-voter-suppression-law-and-corporate-support>.

the dark; but the beneficiary candidates may not be.”<sup>26</sup> This public left in the dark includes investors.

A similar problem has plagued the issue of climate change. Many corporations try to “greenwash” their images to seem as pro-environment as possible. One of the ways that corporations can appear to contradict themselves is by having a public stance on an environmental issue, like urging consumers to reduce their carbon footprints, meanwhile, the corporation may be utilizing dark money conduits to support politicians who are for policies that increase carbon footprints for individuals and industries alike. But again, without transparency of corporate political spending, telling the “greenwashed” company from the truly green company is well nigh impossible.

Corporate political spending and climate policy are inter-related since companies that contribute to climate change and/or pollution have an incentive to financially support politicians who will either keep the status quo or allow for environmental deregulation to the detriment of a healthy and sustainable planet—a prerequisite for a long-term business growth. Often corporate political spenders can hide this corporate political activity through dark political spending. This robs the public of financial accountability for publicly traded corporations and political accountability for elected politicians.<sup>27</sup> Hiding the ball on corporate political spending facilitates environmental policies that do not reflect the public weal. Moreover, dark corporate political spending creates a market failure for investors who cannot properly allocate risk in their respective portfolios.

ESG disclosures are most useful to investors and registrants if they are mandatory and standardized in a way that makes them comparable across firms within an industry and across sectors. They should be easily accessible, machine-readable, transparent, clear, and decision-useful to all investors across different levels of sophistication. Such requirements will also eliminate confusion among registrants regarding what to disclose.

Meanwhile, against a backdrop of regulatory inaction, many shareholders have used their rights under the securities law to push back and ask for more transparency of corporate political spending and other ESG disclosures.<sup>28</sup> Shareholder proposals about corporate dark money have been one of the most frequently filed topics in the past few years.<sup>29</sup> The Forum for Sustainable and Responsible Investment (US SIF) reported, “[i]n the 2014 season, the bulk of the 130-plus resolutions on political spending and lobbying asked companies to report on their lobbying expenditures, including

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<sup>26</sup> Miriam Galston, *Buckley 2.0: Would the Buckley Court Overturn Citizens United?*, 22 U. PA. J. CONST. L. 687, 729 (2020).

<sup>27</sup> Senator Sheldon Whitehouse, *Dark Money and U.S. Courts: The Problem and Solutions*, 57 HARV. J. ON LEGIS. 273, 278 (2020) (“Dark money fouls political debate, as well. From the shelter of anonymity, corporate interests can without accountability propagate a ‘tsunami of slime’--the manufactured front group bears the onus for the smears and attacks, and can be disposed of like Kleenex. ... Worse, it leaves the public unaware that anything went on behind the scenes.”).

<sup>28</sup> Julie N.W. Goodridge & Christine Jantz, *Corporate Political Spending: Why Shareholders Must Weigh In*, 5(2) JOURNAL OF VALUES-BASED LEADERSHIP Article 3 (2012), <https://scholar.valpo.edu/jvbl/vol5/iss2/3>.

<sup>29</sup> Eliza Newlin Carney, *Shareholders Demand Disclosure -- and Republicans Push Back*, AMERICAN PROSPECT (May 4, 2017), <https://prospect.org/power/shareholders-demand-disclosure-republicans-push-back/>.

through indirect channels such as trade associations and non-profit organizations that do not have to report their donors.”<sup>30</sup> The trend remained the same years later according to the Sustainable Investment Institute (Si2), which tracked these types of shareholder proposals in 2018, “80 resolutions ask[ed] companies to disclose political activity spending ....”<sup>31</sup> The result of this activism is that the number of publicly traded companies that have chosen to adopt best practices for transparency jumped from 70 to 173 over the past decade.<sup>32</sup> The continual requests from shareholders for more transparency of corporate political spending over the past decade through shareholder proposals is one indication that this information is material to them. The threats of boycotts when consumers can connect the dots between partisan behavior and corporate political spending is another indication that it is material to the investors who will be impacted by such boycotts.<sup>33</sup>

I appreciate the opportunity to comment on the above referenced Request for Input by the Securities and Exchange Commission which rightly identified the urgent need for mandatory climate and environmental, social, and governance (ESG) disclosures, including disclosure of corporate political spending. The Supreme Court has upheld the disclosure of money in politics as being perfectly constitutional.<sup>34</sup> The Commission should move quickly to propose, adopt, implement, and enforce detailed disclosure requirements for all issuers.

Finally, mandating climate and ESG disclosures falls squarely within the SEC’s mission to protect investors; ensure fair, orderly, and efficient markets; and facilitate capital formation.<sup>35</sup> As you establish new rules for ESG, I encourage you to promulgate a rule that requires transparency of corporate political spending and ends the flow of dark money from publicly traded companies into our political system.

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<sup>30</sup> *Shareholder Resolutions*, US SIF (2015), <http://www.ussif.org/resolutions>.

<sup>31</sup> Sustainable Investment Institute, *Proxy Preview Climate, Politics, and Women Top Shareholder Issues for Proxy Season 2018* (Mar. 8, 2018), [https://siinstitute.org/press/2018/Proxy\\_Preview\\_2018\\_PressRelease\\_pdf](https://siinstitute.org/press/2018/Proxy_Preview_2018_PressRelease_pdf).

<sup>32</sup> Press Release, *CPA Statement on 10th Anniversary of Citizens United*, CENTER FOR POLITICAL ACCOUNTABILITY (Jan. 17, 2020), <https://politicalaccountability.net/hifi/files/Citizens-United-Ten-Years-Later.pdf> (“By January 2010, 70 major companies had already adopted CPA’s corporate governance model for political disclosure and accountability. Today, that number has more than doubled to 173, as more companies have recognized the risks and benefits of disclosure and corporate board oversight. These companies recognize their duty as responsible stewards of other people’s money to refrain from hiding in the dark corners of politics. In addition, three-fifths of the S&P 500 companies, the dominant source of corporate political money, have some form of disclosure, as measured by a CPA-Wharton School annual benchmarking of those companies’ political disclosure and accountability policies.”).

<sup>33</sup> Ciara Torres-Spelliscy, *The risks of corporate political spending after the Jan. 6 insurrection*, TAMPA BAY TIMES (Feb. 26, 2021), <https://www.tampabay.com/opinion/2021/02/26/the-risks-of-corporate-political-spending-after-the-jan-6-insurrection-column/>.

<sup>34</sup> *Citizens United v. FEC*, 130 S. Ct. 876, 915-917 (2010) (upholding BRCA’s disclosure requirements); *McConnell v. FEC*, 540 U.S. 93, 191-193 (2003) (upholding BRCA’s disclosure requirements); *Buckley v. Valeo*, 424 U.S. 1, 66-68 (1976) (upholding FECA’s disclosure requirements).

<sup>35</sup> Cynthia A. Williams, *The Securities and Exchange Commission and Corporate Social Transparency*, 112(6) HARVARD LAW REVIEW 1197 (Apr. 1999).

Sincerely,  
/s/Ciara Torres-Spelliscy  
Ciara Torres-Spelliscy